



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3004418

Applicant Name: Becky Henderson for Frederick Leaf

Address of Proposal: 8544 Sand Point Way NE.

SUMMARY OF PROPOSED ACTION

Land Use Application for the construction of a 376 sq. ft. pier accessory to an existing single family residence.

The following approvals are required:

Shoreline Substantial Development Permit - for development in the UR environment and to allow the construction of a moorage pier in an Urban Residential/Conservancy Recreation (UR/CR) Shoreline Environment.
(Section 23.60.020A Seattle Municipal Code)

SEPA - Environmental Determination - Chapter 25.05 SMC

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS
 ☒ DNS with conditions
 ☐ DNS involving non-exempt grading or demolition
 or involving another agency with jurisdiction.

BACKGROUND DATA

Site Location and Description

The proposal is located at 8544 Sand Point Way NE, approximately a quarter of a mile south of Matthews Beach Park. The proposed work will take place on a parcel of land along Lake Washington. The length of shoreline at the site is approximately 60-ft. There is an existing single family residence on the site. There is currently no pier on the site.

Zoning

Single Family 5000 (SF 5000) with the Urban Residential (UR) Shoreline Master Program (SMP) designation for the dry land portion of the site and Conservancy Recreation (CR) SMP designation for the submerged portion of the site.

Area Development

North: Single-family structure, SF 5000 UR/CR zone
East: Lake Washington
South: Single-family structure, SF 5000 UR/CR zone
West: Single-family structures, SF 7200

Proposal Description

The applicant proposes to construct a new moorage pier, which is 70 feet long and four feet wide, with a six foot by 16-foot 'L' section. Installation includes ten piles of eight to ten inch diameter, constructed of galvanized steel. The new decking on the dock will consist of a fully grated (plastic) surface to allow light to transmit through the surface. Native vegetation will be planted along the shoreline.

Public Comment

The public comment period ended on May 26, 2006, and no comment letters were received within that time period.

ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: *A substantial development permit shall be issued only when the development proposed is consistent with:*

- A. *The policies and procedures of Chapter 90.58 RCW;*
- B. *The regulations of Chapter 23.60; and*
- C. *The provisions of Chapter 173-27 WAC*

Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy aims to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting public rights of navigation and corollary incidental rights.

Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, which also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the state is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

B. The Regulations of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program". In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, meets the development standards for all shoreline environments established in SMC 23.60.152 as well as the criteria and development standards for the shoreline environment in which the site is located, any applicable special approval criteria and the development standards for specific uses.

The site is classified as a waterfront lot (SMC 23.60.924). The shoreline designations for the site are Urban Residential/Conservancy Residential (UR/CR) (SMC 23.60.540 and 360). Residential piers are a permitted use in these shoreline environments.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The purpose of the UR and CR environments are stated in SMC 23.60.220.C.6 and C 3, respectively. The applicable sections of these regulations to the current proposal are: in the Conservancy Recreation Environment maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities and in the Urban Residential Environment residential areas shall be protected in a manner consistent with the Single Family Residential Area Policies.

SMC 23.60.064.- Procedures for Obtaining Shoreline Substantial Development Permits

The proposed project is a permitted use in the UR/CR environment (SMC 23.60.540 and 360) and the underlying Single Family Residential 5000 (SF 5000) zoning district (SMC 23.44). As designed, the proposal conforms to the general development standards and the requirements of the underlying residential zone and of the UR/CR overlay zones.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environment. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. These general standards of the SMP state, in part, that all shoreline development and uses shall:

- protect the quality and quantity of surface and ground water on and adjacent to the lot and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and regulatory agencies. Best management practices such as paving and berming of drum storage areas, fugitive dust controls and other good housekeeping measures to prevent contamination of land or water shall be required.
- not release oil, chemicals or other hazardous materials onto or into the water...
- minimize the amount of impervious surface in the shoreline environment;
- utilize permeable surfacing where practicable to minimize surface water accumulation and runoff.
- be located, designed, constructed, and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas, including but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes;
- be located, designed, constructed and managed to minimize interference with, or adverse impacts to, beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion;
- be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and
- be located, constructed, and operated so as not to be a hazard to public health and safety.

To meet the above general development standards the pier has been redesigned to minimize the impacts of the new structure on natural shoreline processes and impacts to the aquatic environment and includes a fully grated deck, steel piles instead of treated wood piles and a maximum pier width of ten inches. Native vegetation is proposed to be planted along the shoreline to meet the natural processes general development standard. This native vegetation shall consist of native vegetation exclusively consisting of trees, shrubs and groundcover. The

trees and shrubs shall be of the species type that overhangs the water to provide terrestrial insect drop and detritus that contributes to the natural shoreline processes. The new vegetation will include the three new trees, 25 additional shrubs, and perennials and groundcovers in the quantities shown on the planting plan submitted May 31, 2006 (Sheet 3).

Construction impacts could also occur if Best Management Practices are not implemented. The applicant's plan shows that the proposed construction work will take place in, over, and adjacent to the waters of Lake Washington. With the proposed work taking place in, adjacent, and over-water, there exists the potential for debris and other deleterious material to enter the water during this proposed work. Best management practices (BMPs) should be employed to decrease the probability of debris or other deleterious material from entering the water during the proposed work and to decrease the water quality impacts of the work. A boom shall be deployed around the construction area to contain any debris that enters the water during the construction. At a minimum any floating debris that enters the water during construction shall be collected once per day. This material shall be contained on site, secured, and then disposed of at the appropriate upland facility. If heavy debris or deleterious material enters the water and sinks, the location of the material shall be recorded in a log that is kept through the duration of the project. When construction is completed, this material/debris shall be removed by a diver and disposed of at the appropriate upland facility.

Construction activity will be restricted to timing limitations set forth in the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife. Additional conditions will be imposed to minimize construction impacts.

Therefore, the single family appurtenant pier, as proposed and conditioned, is consistent with these general standards for development within the shoreline area, thereby minimizing any adverse impact to the shoreline area, to water and habitat quality and will not be a hazard to the public health and safety.

SMC 23.60.204 Piers and Floats Accessory to Residential Development

The proposal satisfies all applicable standards for piers.

SMC 23.60.570 and SMC 23.60.390 - Development Standards for the UR and CR Environments

The development standard for the UR and CR environments pertinent to this proposal concerns lot coverage of all structures, including piers. The CR environment development standards also contain requirements for natural area protection.

The lot coverage regulations for both shoreline environments require that structures, including piers, not occupy an area greater than thirty-five (35) percent of a waterfront lot, or one thousand seven hundred fifty (1,750) sq. ft., whichever is greater. The proposed new pier will add approximately 376 sq. ft. of lot coverage. Although lot coverage calculations are not provided, it is clear from the plans that the lot coverage will not exceed 35 percent with the addition of the new pier. Therefore the proposal meets the lot coverage requirements.

Natural area protection of the CR environment, which is the area waterward of the Ordinary High Water, at each site, requires that all development in this environment be located and designed to minimize adverse impacts to natural areas of biological significance and that development in critical natural areas be minimized. Critical natural areas include streams, fish spawning areas and other habitat. This site is located in the northeastern portion of Lake Washington, which is important rearing and migration habitat for juvenile salmon, including Chinook salmon, a species listed as threatened, in March of 1999, under the Endangered Species Act. Habitat elements that are important for fish rearing include shallow water habitat, which serves as refuge and overhanging vegetation that provides a prey source for juvenile salmonids and detritus, which feed the aquatic food web.

As proposed and conditioned this project minimizes overall impacts to the natural critical area through the use of grated decking and steel piles for the new pier and planting native vegetation along the shoreline.

C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the state's Department of Ecology (DOE). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing analysis, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT

The Shoreline Substantial Development permit is **CONDITIONALLY GRANTED**. Conditions are listed at the end of this report.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the Environmental Checklist (dated April 6, 2006.) The information in the checklist, the supplemental information in the file and on the plans, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* subject to some limitations. Under such limitations or

circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts are expected: temporary increase in noise levels, increase in water turbidity levels, increased levels of fugitive dust and fumes from the construction equipment, disturbance of shorelines and displacement of some fish wildlife species due to increased water turbidity levels and increased noise from the construction activities. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC 25.05.794).

Several adopted codes and/or ordinances provide mitigation for the identified construction impacts. Specifically these are: the Seattle Noise Ordinance (construction noise); State Air Quality Codes administered by the Puget Sound Clean Air Agency (air quality); and the Seattle Shoreline Master Program. Compliance with these codes and/or ordinances will lessen the environmental impacts of the proposed project.

No SEPA conditioning of potential short-term impacts is warranted because impacts from the short term construction impacts will be mitigated through other codes, ordinances and regulations.

Long-term Impacts

Long-term or use related impacts are also anticipated from the proposal and include: an increase in over-water coverage in the form of a pier and pier platform and an increase in structures in the lake environment in the form of piles. These long-term impacts are potentially significant without mitigation; therefore, merit a detailed discussion of the impacts and the required mitigation.

Plants and Animals

Chinook salmon, a species listed as threatened under the Endangered Species Act (ESA) in March 1999, are known to inhabit Lake Washington including the proposed project area. Under the City of Seattle's Environmental Policies and Procedures 25.05.675 N (2) it states in part: *A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*

This project is proposed to occur in the littoral (shallow water) and sub-littoral (medium depth water) areas of Lake Washington. The littoral area is part of the migration corridor of Chinook salmon and serves as rearing habitat for juvenile Chinook salmon from the Cedar River and potentially other water bodies in Water Resource Inventory Area 8.

Clearly identified long-term impacts on juvenile Chinook salmon and the aquatic environment include an increase in over-water coverage in the form of a pier and an increase in piling in the habitat of a threatened species. Over-water coverage and piling reduces the amount and quality of natural habitat of juvenile Chinook salmon and provides habitat for introduced predator species of juvenile Chinook. The impacts of over-water structures on juvenile Chinook habitat include shading the nearshore lake environment causing some of the Chinook salmon to alter their migration pattern by following the outside of the pier structure into deeper water. While in deeper water the juvenile Chinook are more susceptible to predation by larger fish because they have no refuge. Shading may also provide cover for predator species of juvenile Chinook. Piling adversely impact aquatic habitat for juvenile salmonids (Chinook in particularly) by providing potential spawning habitat for smallmouth bass, an introduced species, which prey on juvenile Chinook salmon. Smallmouth bass are known to build their nests at the base of piles. Additionally, pilings occupy the substrate area of the lake thereby eliminating this habitat for use by aquatic species. Over-water structures including piles also contribute to the simplification of the shoreline environment. The simplification of the nearshore lake environment eliminates the amount of habitat available for juvenile Chinook to find refuge from predators including smallmouth bass. Ideal refuge for juvenile Chinook is shallow water that allows the juveniles to escape from predation by larger fish. Complexity in the shallow water habitat in the form of overhanging vegetation, a sinuous shoreline, and woody debris in the very shallow areas provides refuge in the form of undercut banks and interstitial spaces for the juvenile salmon to escape the predators.

The applicant has proposed the use of grated decking and steel piles in the construction of the proposed pier, and the planting of native vegetation along the shoreline. Each of these mitigation measures and conditions are believed to minimize impacts on the general aquatic habitat and on juvenile salmonid (including Chinook) habitat at the site. Collectively they are believed to help eliminate dark areas under the piers, which should in turn allow the juvenile salmon to remain in the shallow water during their migration and minimize the amount of simple structures in the nearshore lake environment. Additionally, the riparian vegetation planted along the shoreline will increase the allocthonous input of insects and detritus to Lake Washington providing food for juvenile salmonids and nutrients for other aquatic organisms.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have significant adverse impacts upon the environment. An EIS is not required under RCW 43.21C.030.(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA and SHORELINE

Conditions Prior to Issuance of Construction Permit

Shoreline

1. Develop and submit a Best Management Practices Plan, which shall include an emergency containment plan to contain any toxic substance spills during the proposed work and the provision that the appropriate equipment and material for hazardous material clean up be kept at the site for the duration of construction. The BMP shall include the use of a floating boom and to contain turbidity and any material that falls into the water during construction.
2. Drainage from the site shall result in no toxic or hazardous substances including pesticides, herbicides or chemical fertilizers, entering the Lake Washington via stormwater runoff. Appropriate measures that ensure this shall be included in the construction plans.

Shoreline and SEPA

3. Include the vegetation planting plan in the construction permit application, including the updated vegetation plan that was submitted on May 31, 2006.

Conditions During Construction

The following conditions(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

Shoreline

4. Prior to commencement of construction; the owner(s) and/or responsible party(ies) shall notify in writing all contractors and sub-contractors of the general requirements of the Seattle Shoreline Master Program (SSMP 23.60.152), including the requirements set forth in conditions of the MUP.
5. Construction timing will be restricted according to the conditions of the Hydraulic Project Approval (HPA) from Washington Department of Fish and Wildlife.
6. In order to minimize the potential impacts to water quality from construction equipment, the equipment used for construction shall be checked daily for leaks. If leaks are detected the source of the leak shall be located, contained, and fixed prior to additional use of the equipment. Any spill that has occurred due to the leak shall be properly cleaned up.
7. The Best Management Practices Plan developed for this project shall be implemented to ensure that debris and other deleterious material does not enter the water during construction.

8. If floating debris enters the water during construction, this floating debris shall be removed from the water immediately, stored on-site, and then disposed of in the appropriate upland facility.
9. If heavy (sinking) debris enters the water during the repair work the location of the debris shall be documented in a log to be kept through the duration of the project. When construction is complete a diver shall retrieve all debris that has entered the water and sunk during construction.
10. Skirting or other structures shall not be constructed around the pier.
11. The use of wood treated with creosote or pentachlorophenol is prohibited.
12. Any treated lumber to be used for the project shall meet or exceed the standards established in "Best Management Practices For the Use of Treated Wood in Aquatic Environments" developed by the Western Wood Preservers Institute <http://www.wwpinstitute.org/>.
13. No toxic materials, petrochemicals and other pollutants shall enter the surface water as a result of the construction of this project or as a result of stormwater runoff from the site upon completion of the project.

Shoreline and SEPA

14. Native vegetation exclusively shall be planted within 20-ft of the shoreline.

Conditions for the Life of the Project

Shoreline

15. No toxic materials, petrochemicals and/or other pollutants shall enter the surface water as a result of the stormwater runoff from the site upon completion of the project.
16. The vegetation planted within 20-ft of the shoreline shall be maintained for the life of the project.
17. No pesticides, herbicides, or chemical fertilizers shall be used within 50-ft of the shoreline.

Signature: (signature on file)
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

Date: July 27, 2006